

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2031

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE O'CONNOR.

Read 1st time February 21, 2002, and 1000 copies ordered printed.

Read 2nd time February 25, 2002, and referred to the Committee on Motor Vehicle and Traffic Regulations, March 7, 2002.

Reported from the Committee on Motor Vehicle and Traffic Regulations, March 13, 2002, with recommendation that the bill Do
Pass by Consent.

Perfectured by Consent March 20, 2002.

TED WEDEL, Chief Clerk

4847L.01P

AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to motor vehicle dealers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu
2 thereof, to be known as section 301.560, to read as follows:

301.560. 1. In addition to the application forms prescribed by the department, each
2 applicant shall submit the following to the department:

3 (1) When the application is being made for licensure as a manufacturer, boat
4 manufacturer, motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, wholesale
5 motor vehicle auction or a public motor vehicle auction, a certification by a uniformed member
6 of the Missouri state highway patrol stationed in the troop area in which the applicant's place of
7 business is located; except, that in counties of the first classification, certification may be
8 authorized by an officer of a metropolitan police department when the applicant's established
9 place of business of distributing or selling motor vehicles or trailers is in the metropolitan area
10 where the certifying metropolitan police officer is employed, that the applicant has a bona fide
11 established place of business. A bona fide established place of business for any new motor
12 vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building
13 or structure, either owned in fee or leased and actually occupied as a place of business by the
14 applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and

15 wherein the public may contact the owner or operator at any reasonable time, and wherein shall
16 be kept and maintained the books, records, files and other matters required and necessary to
17 conduct the business. The applicant's place of business shall contain a working telephone which
18 shall be maintained during the entire registration year. In order to qualify as a bona fide
19 established place of business for all applicants licensed pursuant to this section there shall be an
20 exterior sign displayed carrying the name and class of business conducted in letters at least six
21 inches in height and clearly visible to the public and there shall be an area or lot which shall not
22 be a public street on which one or more vehicles may be displayed, except when licensure is for
23 a wholesale motor vehicle dealer, a lot and sign shall not be required. When licensure is for a
24 boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the
25 bona fide established place of business shall include adequate facilities, tools and personnel
26 necessary to properly service and repair motor vehicles and trailers under their franchisor's
27 warranty;

28 (2) If the application is for licensure as a manufacturer, boat manufacturer, new motor
29 vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer
30 or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches,
31 showing the business building and sign shall accompany the initial application. In the case of
32 a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph
33 shall include the lot of the business. A new motor vehicle franchise dealer applicant who has
34 purchased a currently licensed new motor vehicle franchised dealership shall be allowed to
35 submit a photograph of the existing dealership building, lot and sign but shall be required to
36 submit a new photograph upon the installation of the new dealership sign as required by sections
37 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the
38 business has moved from its previously licensed location, or unless the name of the business or
39 address has changed, or unless the class of business has changed;

40 (3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat
41 dealer, the application shall contain the business address, not a post office box, and telephone
42 number of the place where the books, records, files and other matters required and necessary to
43 conduct the business are located and where the same may be inspected during normal daytime
44 business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required
45 of new franchised motor vehicle dealers and used motor vehicle dealers;

46 (4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer,
47 a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate
48 surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by
49 any state or federal financial institution in the penal sum of twenty-five thousand dollars on a
50 form approved by the department. The bond or irrevocable letter of credit shall be conditioned

51 upon the dealer complying with the provisions of the statutes applicable to new motor vehicle
52 franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers,
53 and the bond shall be an indemnity for any loss sustained by reason of the acts of the person
54 bonded when such acts constitute grounds for the suspension or revocation of the dealer's license.
55 The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved
56 parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary;
57 except, that the aggregate liability of the surety or financial institution to the aggrieved parties
58 shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds
59 of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final
60 judgment from a Missouri court of competent jurisdiction against the principal and in favor of
61 an aggrieved party;

62 (5) Payment of all necessary license fees as established by the department. In
63 establishing the amount of the annual license fees, the department shall, as near as possible,
64 produce sufficient total income to offset operational expenses of the department relating to the
65 administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of
66 sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or
67 certificates of number collected pursuant to subsection 6 of this section, shall be collected by the
68 department for deposit in the state treasury to the credit of the "Motor Vehicle Commission
69 Fund", which is hereby created. The motor vehicle commission fund shall be administered by
70 the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary
71 notwithstanding, money in such fund shall not be transferred and placed to the credit of the
72 general revenue fund until the amount in the motor vehicle commission fund at the end of the
73 biennium exceeds two times the amount of the appropriation from such fund for the preceding
74 fiscal year or, if the department requires permit renewal less frequently than yearly, then three
75 times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the
76 fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation
77 from such fund for the preceding fiscal year.

78 2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale
79 motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle
80 auction submits an application for a license for a new business and the applicant has complied
81 with all the provisions of this section, the department shall make a decision to grant or deny the
82 license to the applicant within eight working hours after receipt of the dealer's application,
83 notwithstanding any rule of the department.

84 3. Upon the initial issuance of a license by the department, the department shall assign
85 a distinctive dealer license number or certificate of number to the applicant and the department
86 shall issue one number plate or certificate bearing the distinctive dealer license number or

87 certificate of number within eight working hours after presentment of the application. Upon the
88 renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor
89 vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the
90 department shall issue the distinctive dealer license number or certificate of number as quickly
91 as possible. The issuance of such distinctive dealer license number or certificate of number shall
92 be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat
93 dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle
94 dealer, wholesale motor vehicle auction or motor vehicle dealer.

95 4. Notwithstanding any other provision of the law to the contrary, the department shall
96 assign the following distinctive dealer license numbers to:

97 New motor vehicle franchise dealers	D-0 through D-999
98 New motor vehicle franchise and commercial	
99 motor vehicle dealers	D-1000 through D-1999
100 Used motor vehicle dealers	D-2000 through D-5399
101	and D-6000 through D-9999
102 Wholesale motor vehicle dealers	W-1000 through W-1999
103 Wholesale motor vehicle auctions	W-2000 through W-2999
104 Trailer dealers	T-0 through T-9999
105 Motor vehicle and trailer manufacturers	M-0 through M-9999
106 Motorcycle dealers	D-5400 through D-5999
107 Public motor vehicle auctions	A-1000 through A-1999
108 Boat dealers and boat manufacturers	B-0 through B-9999

109 5. Upon the sale of a currently licensed new motor vehicle franchise dealership the
110 department shall, upon request, authorize the new approved dealer applicant to retain the selling
111 dealer's license number and shall cause the new dealer's records to indicate such transfer.

112 6. In the case of manufacturers and motor vehicle dealers, the department shall also issue
113 one number plate bearing the distinctive dealer license number to the applicant upon payment
114 by the manufacturer or dealer of a fifty-dollar fee. Such license plates shall be made with fully
115 reflective material with a common color scheme and design, shall be clearly visible at night, and
116 shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat
117 manufacturers shall be entitled to one certificate of number bearing such number upon the
118 payment of a fifty-dollar fee. As many additional number plates as may be desired by
119 manufacturers and motor vehicle dealers and as many additional certificates of number as may
120 be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten
121 dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer,
122 manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer

or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

9. (1) Effective January 1, 2003, every application for the issuance or renewal of a used motor vehicle dealer's license shall be accompanied by, or supported by, such evidence as the department shall prescribe, documenting the successful completion of a six-hour educational seminar, approved by the department, during the twelve-month period immediately preceding the date of the application. Wholesale auctions, public auto auctions, motor vehicle rental or leasing companies, and salvage dealers pursuant to section 301.218 shall be exempt from this requirement.

(2) The educational seminar shall include, but is not limited to, the dealer requirements of sections 301.550 to 301.573, the rules promulgated to implement, enforce and administer sections 301.550 to 301.573, the requirements of the department, and other information designed to promote good business practices.

(3) Each educational seminar shall be sponsored by a nonprofit corporation, authorized to do business in Missouri, that develops and presents educational programs which enhance the knowledge and competence of used motor vehicle dealers, their salespersons and service personnel for the benefit of the public. The department shall establish by rule qualifications for, and approve all, sponsoring organizations. Such

159 **qualifications shall include a requirement that the sponsoring organization shall provide**
160 **educational seminars throughout the state at various locations as approved by the**
161 **department. All principals and instructors of the sponsoring organization shall not have**
162 **had any prior felony convictions as determined by a background check by the Missouri**
163 **highway patrol.**